

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

03-CR-6033L

v.

TOMMY HARDY,

Defendant.

Defendant, Tommy Hardy (“Hardy”), is represented by appointed counsel who timely filed motions relating to the pending indictment, including a motion to suppress statements. These motions were heard by Magistrate Judge Marian W. Payson and rejected by her and, on appeal, by this Court.

After the time had expired for filing motions, Hardy filed a *pro se* motion to suppress evidence obtained from a search of 541 Lyell Avenue, Rochester, New York in September 2002. The motion was filed *pro se* by Hardy but was signed “David R. Morabito, Esq., signed on behalf of Tommy Hardy Pro Se.”


The Government responded to the *pro se* motion.

I agree with the Government that Hardy has not demonstrated that he has standing to contest the search of the premises at 541 Lyell Avenue. There is no affidavit or other evidence indicating

Hardy's status at the premises as other than a guest. As such, he has no expectation of privacy in the premises and, therefore, no right to move to suppress, alleging a violation of the Fourth Amendment.

Therefore, defendant Tommy Hardy's *pro se* motion to suppress is denied.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
June 30, 2005.